

BILL ANALYSIS

Senate Research Center

S.B. 411
By: Whitmire
Government Organization
8/18/2005
Enrolled

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

The Texas State Board of Barber Examiners (board) and the Texas Cosmetology Commission (commission) regulate barbers and cosmetologists to protect the health and safety of the public. The agencies perform two major functions: licensing barbers and cosmetologists, instructors, shops, salons, and schools; and enforcing the Barber and Cosmetology Acts and agency rules by investigating complaints and conducting inspections.

The board currently regulates about 13,150 individuals and 8,000 entities, with a staff of 13, on an annual budget of about \$600,000.

The commission currently regulates about 151,500 individuals and 8,000 entities, with a staff of 42, on an annual budget of about \$2.3 million.

The board and the commission are subject to the Sunset Act and will be abolished on September 1, 2005, unless continued by the legislature. The sunset review found that the agencies are not effective in carrying out their regulatory duties, and that some aspects of the regulation of barbering and cosmetology did not protect the public and wasted resources.

S.B. 411 abolishes the board and the commission and transfers the agencies' functions to the Texas Department of Licensing and Regulation.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Commission of Licensing and Regulation in SECTION 1.01 (Section 1603.101, 1603.102, 1603.103, 1603.104, and 1603.151, Occupations Code) and SECTION 3.20 (Section 1602.353, Occupations Code) of this bill.

SECTION BY SECTION ANALYSIS

ARTICLE 1. TEXAS DEPARTMENT OF LICENSING AND REGULATION

SECTION 1.01. Amends Title 9, Occupations Code, by adding Chapter 1603, as follows:

CHAPTER 1603. REGULATION OF BARBERING AND COSMETOLOGY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1603.001. GENERAL DEFINITIONS. (a) Defines "commission," "department," and "executive director."

(b) Provides that the definitions in Chapters 1601 (Barbers), Occupations Code and 1602 (Cosmetologists), Occupations Code, apply to this chapter, unless the context clearly indicates otherwise.

Sec. 1603.002. REGULATION OF BARBERING AND COSMETOLOGY BY DEPARTMENT OF LICENSING AND REGULATION. Requires the Texas Department of Licensing and Regulation (department) to administer this chapter and Chapters 1601 and 1602. Provides that a reference in this chapter to the Texas Commission of Licensing and Regulation's (commission) or department's powers or duties applies only in relation to those chapters, except that this section does not limit the department's or commission's general powers under Chapter 51 (Texas Department of Licensing and Regulation), Occupations Code.

[Reserves Sections 1603.003-1603.050 for expansion.]

SUBCHAPTER B. ADVISORY BOARDS FOR BARBERING AND COSMETOLOGY

Sec. 1603.051. DUTIES. Requires the barber and cosmetology advisory boards established under Chapters 1601 and 1602 to advise the commission on administering this chapter and Chapters 1601 and 1602 regarding barbering or cosmetology, as applicable.

[Reserves Sections 1603.052-1603.100 for expansion.]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 1603.101. RULES. Requires the commission to adopt rules consistent with this chapter for the administration of this chapter, the operation of the department in regulating barbering and cosmetology, and the administration of Chapters 1601 and 1602, Occupations Code.

Sec. 1603.102. SANITATION RULES. Requires the commission to establish sanitation rules to prevent the spread of an infectious or contagious disease.

Sec. 1603.103. INSPECTION OF SCHOOLS, SHOPS, AND FACILITIES BEFORE OPERATION. Prohibits a person from operating a school, shop, or other facility licensed or permitted under Chapters 1601 and 1602, Occupations Code, until the department determines, by inspection, that the person has established the school, shop, or facility in compliance with said chapters. Authorizes a school, shop, or other facility that is not approved by the department on initial inspection to be reinspected and requires said facility to pay a fee for each inspection. Requires the commission, by rule, to set the amount of the fee.

Sec. 1603.104. PERIODIC AND RISK-BASED INSPECTIONS. (a) Authorizes the department to enter and inspect at any time during business hours certain facilities regulated under this chapter, Chapter 1601, or Chapter 1602, or any place in which the department has reasonable cause to believe that a certificate, license, or permit holder is participating in violation of this chapter, Chapter 1601, or Chapter 1602, or in violation of a rule or order of the commission or the executive director of the department (executive director).

(b) Requires the department to conduct specific, periodic inspections of certain facilities under this chapter, Chapter 1601, or Chapter 1602, Occupations Code.

(c) Requires the department to conduct specific risk-based inspections of certain facilities under said chapters. Requires the board to set priorities for inspections based on certain risk factors.

(d) Sets forth actions required of an inspector who finds a violation during an inspection.

(e) Requires the school, shop, or other facility to pay a fee for each inspection performed under Subsection (c). Requires the commission, by rule, to set the amount of the fee.

Sec. 1603.105. RETENTION OF STUDENT RECORDS. Prohibits the department from retaining student records, including student transcripts, beyond the time required by state law.

[Reserves Sections 1603.106-1603.150 for expansion.]

SUBCHAPTER D. PUBLIC PARTICIPATION AND COMPLAINT PROCEDURES

Sec. 1603.151. NOTIFICATION OF PUBLIC INTEREST INFORMATION AND PARTICIPATION. Requires the commission, by rule, to establish methods by which consumers and service recipients are notified of the name, mailing

address, and telephone number of the department for the purpose of directing complaints to the department regarding barbering and cosmetology. Authorizes the department to provide for that notice through specific means.

Sec. 1603.152. COMPLAINT JURISDICTION; NOTIFICATION. Requires the department, if the department determines that it lacks jurisdiction to resolve the complaint, to notify the complainant in writing that the department is closing the complaint because it lacks jurisdiction.

Sec. 1603.153. ANALYSIS OF COMPLAINTS AND VIOLATIONS. Requires the department to develop and maintain a system to analyze the processing, sources, and types of complaints filed with the department and the types of violations that occur under this chapter, Chapter 1601, and Chapter 1602, Occupations Code, and, based on said information, to analyze trends in violations and complaints that may require further attention or technical assistance to help reduce their frequency. Requires the department to annually compile a statistical analysis of the complaints filed and violations occurring during the preceding year which must include specific information.

Sec. 1603.154. INFORMAL SETTLEMENT CONFERENCE. Requires the department to establish guidelines for an informal settlement conference related to a complaint filed with the department.

[Reserves Sections 1603.155-1603.200 for expansion.]

SUBCHAPTER E. CERTIFICATE, LICENSE, AND PERMIT REQUIREMENTS

Sec. 1603.201. APPLICATION FORM. Requires an application for a certificate, license, or permit to be made on a form prescribed and provided by the department.

Sec. 1603.202. DUPLICATE CERTIFICATE, LICENSE, OR PERMIT. Requires the department to issue a duplicate certificate, license, or permit to an applicant who meets certain requirements.

Sec. 1603.203. PROVISIONAL CERTIFICATE OR LICENSE. Authorizes the department to issue a provisional certificate or license to an applicant currently licensed in another jurisdiction who seeks a certificate or license in this state and who meets certain requirements. Sets forth guidelines for granting a certificate or license to a provisional holder. Sets forth a timeline for the department to grant or deny a provisional certificate or license.

Sec. 1603.204. RECIPROCAL CERTIFICATE, LICENSE, OR PERMIT. Authorizes a person who holds a license, certificate, or permit to practice

barbering or cosmetology from another state or country that has standards or work experience requirements that are substantially equivalent to the requirements of this chapter or Chapters 1601 or 1602, Occupations Code, to apply for a license, certificate, or permit to perform the same acts of barbering or cosmetology in this state that the person practiced in the other state or country and sets forth certain requirements for doing such. Authorizes a person issued a license, certificate, or permit under this section to perform the acts of barbering or cosmetology stated on the license, certificate, or permit and provides that the person is subject to the renewal procedures and fees provided for the performance of those acts of barbering or cosmetology.

[Reserves Sections 1603.205-1603.250 for expansion.]

SUBCHAPTER F. EXAMINATION REQUIREMENTS

Sec. 1603.251. DEFINITION. Defines "examination proctor."

Sec. 1603.252. GENERAL EXAMINATION REQUIREMENTS. Authorizes the department to accept, develop, or contract for the examinations required by this chapter, including the administration of examinations. Requires the executive director to determine uniform standards for acceptable performance on an examination for a license or certificate under Chapter 1601 and for a license or certificate under Chapter 1602. Requires said examination to include a written examination and authorizes said examination to include a practical examination as provided by Section 1603.256.

Sec. 1603.253. WRITTEN EXAMINATION. Requires the commission to select an examination for each written examination required under this chapter, Chapter 1601, or Chapter 1602. Requires the written examination to be validated by an independent testing professional or purchased from a national testing service.

Sec. 1603.254. EXAMINATION FOR BARBERS. Requires an applicant for an examination for a certificate or license issued under Chapter 1601 to submit to the department a sworn application on a form prescribed and provided by the department accompanied by certain materials and fees. Requires the department to examine applicants for a Class A barber certificate and a teacher's certificate.

Sec. 1603.255. EARLY EXAMINATION. Authorizes the department, on written request by a student, to provide for the early written examination of an applicant for a Class A barber certificate, a teacher's certificate, or an operator license who has met certain requirements.

Sec. 1603.256. PRACTICAL EXAMINATION. Authorizes the commission to require a practical examination as it considers necessary for a license or certificate issued under Chapter 1601 or 1602. Requires the department to prescribe the

method and content of any practical examination. Authorizes certain persons to administer a practical examination under this subchapter.

Sec. 1603.257. EXAMINATION PROCTOR; REGISTRATION. Prohibits a person from acting as an examination proctor under this subchapter unless the person is registered with the department under this section. Sets forth eligibility requirements for registration as an examination proctor under this subchapter. Requires the examination proctor, if the department requires an examination proctor to administer a practical examination under this subchapter, to perform the examination administration function of the department in a competent and professional manner and in compliance with standards and specifications adopted by the commission under this chapter and rules adopted by the commission under this chapter.

[Reserves Sections 1603.258-1603.300 for expansion.]

SUBCHAPTER G. CERTIFICATE, LICENSE, AND PERMIT RENEWAL

Sec. 1603.301. DENIAL OF RENEWAL DUE TO ADMINISTRATIVE PENALTY. Authorizes the department to deny a person's request to renew a certificate, license, or permit under this chapter, Chapter 1601, Occupations Code, or Chapter 1602, Occupations Code, if the person has not paid an administrative penalty imposed under Subchapter F, Chapter 51. Provides specific exceptions.

[Reserves Sections 1603.302-1603.350 for expansion.]

SUBCHAPTER H. PRACTICE PROVISIONS APPLICABLE TO CHAPTERS 1601 AND 1602

Sec. 1603.351. MINIMUM CURRICULUM FOR SCHOOLS. Requires the commission to prescribe the minimum curriculum taught by all schools licensed under this chapter, Chapter 1601, or Chapter 1602, Occupations Code.

Sec. 1603.352. SANITATION REQUIREMENTS FOR CERTAIN SERVICES. Sets forth specific sanitation requirements, including requiring the use of an autoclave for sterilizing nondisposable instruments used to perform services and authorizing the use of disposable supplies or instruments under certain conditions, for a person who holds a license, certificate, or permit issued under this chapter, Chapter 1601, or Chapter 1602 and who performs a barbering service described by Section 1601.002(1)(E) or (F) or a cosmetology service described by Section 1602.002(10) or (11). Provides that the owner or manager of a barber shop, barber school, beauty shop, specialty shop, or beauty culture school is responsible for providing said autoclave for use in the shop or school as required by Subsection (a). Sets forth specific requirements for said autoclave.

[Reserves Sections 1603.353-1603.400 for expansion.]

SUBCHAPTER I. DENIAL AND DISCIPLINARY PROCEDURES

Sec. 1603.401. DENIAL, SUSPENSION, OR REVOCATION. Requires the department to deny an application for issuance or renewal of, or to suspend or revoke, a certificate, license, or permit if the applicant or person holding the certificate, license, or permit engages in certain behaviors or acts.

[Reserves Sections 1603.402-1603.450 for expansion.]

SUBCHAPTER J. OTHER PENALTIES AND ENFORCEMENT PROVISIONS

Sec. 1603.451. INJUNCTIVE RELIEF. Requires the attorney general, if a certificate, license, or permit holder commits a violation of Chapters 1601 or 1602, Occupations Code, or a commission rule which poses a serious threat to public health, to initiate a suit for injunction and proceedings for suspension or revocation of the certificate, license, or permit. Provides that, in seeking an injunction under this section, the attorney general is not required to allege or prove certain facts.

Sec. 1603.452. CIVIL PENALTY. Provides that a barber, barber school, or private beauty culture school that violates this chapter, Chapters 1601 or 1602, Occupations Code, or a commission rule is liable for a civil penalty in addition to any injunctive relief or other remedy provided by law. Sets forth guidelines for imposition and collection of said civil penalty.

Sec. 1603.453. APPEAL BOND NOT REQUIRED. Provides that the department is not required to give an appeal bond in a cause arising under this chapter, or Chapters 1601 or 1602, Occupations Code.

Sec. 1603.454. ENFORCEMENT BY ATTORNEY GENERAL. Requires the attorney general to represent the department in an action to enforce this chapter or Chapters 1601 or 1602, Occupations Code.

ARTICLE 2. REGULATION OF BARBERING

SECTION 2.01. Amends Section 1601.001(a), Occupations Code, to redefine "board," "certificate," "license," and "permit" and to define "commission" and "department."

SECTION 2.02. Amends Section 1601.003, Occupations Code, as follows:

Sec. 1601.003. APPLICATION OF CHAPTER. Sets forth specific persons to whom this chapter does not apply, including a person who does not represent or

advertise to the public directly or indirectly that the person is authorized by the department, rather than The State Board of Barber Examiners (board), to practice barbering or a person who is regulated under Chapter 1602, Occupations code, if the person practices within the scope of a permit, license, or certificate issued by the department under that chapter, rather than a person regulated under Chapter 1602, Occupations Code, if the person practices within the scope of a license or certificate issued by the Texas Cosmetology Commission.

SECTION 2.03. Amends the heading to Subchapter B, Chapter 1601, Occupations Code, to read as follows:

SUBCHAPTER B. ADVISORY BOARD ON BARBERING

SECTION 2.04. Amends Section 1601.051(a), Occupations Code, to provide that the Advisory Board on Barbering, rather than the State Board of Barber Examiners, consists of five members appointed by the presiding officer of the commission, with the commission's approval, rather than seven members appointed by the governor with the advice and consent of the senate. Amends specific membership guidelines.

SECTION 2.05. Amends Section 1601.055, Occupations Code, to amend the specific guidelines for terms of members of the Advisory Board on Barbering and to make conforming changes.

SECTION 2.06. Amends Section 1601.058, Occupations Code, to amend the specific guidelines for the presiding officer of the Advisory Board on Barbering and to make conforming changes.

SECTION 2.07. Amends Subchapter B, Chapter 1601, Occupations Code, by adding Section 1601.059, as follows:

Sec. 1601.059. BOARD DUTIES. Sets forth the specific duties of the Advisory Board on Barbering.

SECTION 2.08. Amends Section 1601.253, Occupations Code, to require the department to issue a Class A barber certificate to applicants who meet certain requirements, including paying the required fee, rather paying a fee not to exceed \$100. Makes conforming changes.

SECTION 2.09. Amends Sections 1601.254(a) and (c), Occupations Code, to delete existing text providing that the required fee under this section is not to exceed a specified amount, based on whether or not the applicant fulfills the certificate requirements and the year in which the requirements are fulfilled. Makes conforming changes.

SECTION 2.10. Amends Sections 1601.256(b) and (d), Occupations Code, to require that an applicant for a barber technician license submit the required fee, rather than a \$10 administration fee, with the application and make conforming changes.

SECTION 2.11. Amends Sections 1601.257(b) and (c), Occupations Code, to require that an applicant for a manicurist license be at least 17, rather than 16, pay the required license fee, rather than a fee not to exceed \$30, submit the required fee with application, rather than submit a \$10 administration fee, and make conforming changes.

SECTION 2.12. Amends Section 1601.260, Occupations Code, to require that an applicant for a permit to be a student in a barber school submit the required nonrefundable application fee, rather than a nonrefundable application fee not to exceed \$25, with the application. Makes conforming changes.

SECTION 2.13. Amends Section 1601.265, Occupations Code, to make conforming changes.

SECTION 2.14. Amends Section 1601.301(b), Occupations Code, to require a person who owns, operates, or manages a barbershop or specialty shop, to follow certain procedures, not later than the third day after the date the shop opens.

SECTION 2.15. Amends Section 1601.303, Occupations Code, to require a barbershop permit to be issued to an applicant if the shop meets certain requirements, including the minimum health standards for barbershops set by the commission, rather than the board. Makes conforming changes.

SECTION 2.16. Amends Sections 1601.304(b) and (c), Occupations Code, to require an applicant for a manicurist specialty shop permit to submit the required inspection fee, rather than a fee not to exceed \$50, and to make conforming changes.

SECTION 2.17. Amends Section 1601.305, Occupations Code, to require the department to issue a manicurist specialty shop permit to an applicant who meets certain requirements, including that the shop meets the minimum health standards for manicurist specialty shops set by the commission, as determined by a department inspection under Section 1603.103, rather than as determined by a board inspection, and any other requirements imposed by commission rule. Makes conforming changes.

SECTION 2.18. Amends Section 1601.309, Occupations Code, to make a conforming change.

SECTION 2.19. Amends Section 1601.352, Occupations Code, to make conforming changes.

SECTION 2.20. Amends Section 1601.353, Occupations Code, to require an applicant for a barber school permit to submit certain materials to the department, including the

required permit fee, rather than a permit fee not to exceed \$1,000, and to make conforming changes.

SECTION 2.21. Amends Section 1601.354, Occupations Code, to make conforming changes.

SECTION 2.22. Amends Section 1601.355, Occupations Code, to make conforming changes.

SECTION 2.23. Amends Section 1601.3571(a) and (b), Occupations Code, to make conforming changes.

SECTION 2.24. Amends Section 1601.402(c), Occupations Code, to require a renewal application under this section to be accompanied by a renewal fee in an amount equal to the original certificate or license fee, rather than an amount equal to the original certificate or license fee but not to exceed \$100. Makes conforming changes.

SECTION 2.25. Amends the heading to Section 1601.404, Occupations Code, to read as follows:

Sec. 1601.404. REINSTATEMENT OF EXPIRED CERTIFICATE OR LICENSE BY RETIREE.

SECTION 2.26. Amends Section 1601.404(c), Occupations Code, to make conforming changes.

SECTION 2.27. Amends Section 1601.405, Occupations Code, to require the department to issue a renewal certificate or license on application and payment of the required renewal fee, rather than a renewal fee, within 90 days of the date the person is released or discharged from active duty in the armed forces. Deletes existing text providing for the amount of the renewal fee. Makes conforming changes.

SECTION 2.28. Amends Section 1601.406, Occupations Code, to provide that a barbershop permit or specialty shop permit expires on the second anniversary of the date of issuance, rather than on July 1 of each odd-numbered year. Authorizes a barbershop permit holder to renew the permit by paying the required renewal fee, rather than a renewal fee not to exceed \$70, and authorizes a specialty shop permit holder to renew the permit by including, with the renewal application, the required renewal fee, rather than a renewal fee not to exceed \$50. Makes conforming changes.

SECTION 2.29. Amends Section 1601.407, Occupations Code, to provide that a barber school permit expires on the first anniversary of the date of issuance, rather than September 1 of each year, and that a barber school may renew its permit by paying the required renewal fee, rather than a renewal fee not to exceed \$300. Makes conforming changes.

SECTION 2.30. Amends Section 1601.452, Occupations Code, to require each barbershop or specialty shop to post in the shop a copy of the commission's sanitation rules, rather than the board's rules adopted under Section 1601.152.

SECTION 2.31. Amends Section 1601.453, Occupations Code, to make conforming changes.

SECTION 2.32. Amends Sections 1601.454, Occupations Code, as follows:

Sec. 1601.454. New heading: PRACTICE AT FACILITY LICENSED OR PERMITTED AS BARBER AND COSMETOLOGIST FACILITY. Prohibits the department from adopting certain rules solely because a facility is licensed or permitted by the department under both this chapter and Chapter 1602, Occupations Code, rather than by both the board and the Texas Cosmetology Commission. Makes conforming changes.

SECTION 2.33. Amends Section 1601.501, Occupations Code, as follows:

Sec. 1601.501. New heading: DISPLAY OF SHOP PERMIT. Requires a barbershop or specialty shop permit holder to display the permit in a conspicuous place in the shop for which the permit is issued.

SECTION 2.34. Amends Section 1601.552, Occupations Code, to make conforming changes.

SECTION 2.35. Amends Section 1601.554, Occupations Code, to make conforming changes.

SECTION 2.36. Amends Section 1601.556, Occupations Code, to make conforming changes.

SECTION 2.37. Amends Section 1601.557, Occupations Code, to make conforming changes.

SECTION 2.38. Amends Section 1601.559(b), Occupations Code, to make a conforming change.

SECTION 2.39. Amends Section 1601.560(a), Occupations Code, to require a barber school that provides training leading to issuance of a Class A barber certificate, in addition to the teacher required by section 1601.355(b), to have at least one qualified instructor, holding a Class A certificate, for every 25, rather than 20, students on the school's premises, rather than for instruction practical work.

SECTION 2.40. Amends Sections 1601.561, Occupations Code, as follows:

Sec. 1601.561. New heading: REPORTS TO DEPARTMENT. Requires a barber school to maintain a monthly progress report regarding each student attending the school, rather than to submit a monthly progress report to the board regarding each student attending the school. Requires the school, on a student's completion of a prescribed course of instruction, to notify, rather than certify to, the department that the student has completed the required number of hours and is eligible to take the appropriate examination. Makes conforming changes.

SECTION 2.41. Amends Section 1601.566(d), Occupations Code, to make conforming changes.

SECTION 2.42. Amends Section 1601.603, Occupations Code, to make conforming changes.

SECTION 2.43. Amends Section 1601.604(a), Occupations Code, to make a conforming change.

SECTION 2.44. Amends Section 1601.605, Occupations Code, to make a conforming change.

SECTION 2.45. Amends Sections 1601.606(a), (b), and (c), Occupations Code, to make conforming changes.

SECTION 2.46. Amends Section 1601.653(a), Occupations Code, to make a conforming change.

ARTICLE 3. REGULATION OF COSMETOLOGY

SECTION 3.01. Amends Section 1602.001, Occupations Code, to define "board," "department," and "executive director" and to redefine "commission."

SECTION 3.002. Amends Section 1602.002, Occupations Code, to redefine "cosmetology."

SECTION 3.03. Amends the heading to Subchapter B, Chapter 1602, Occupations Code, to read as follows:

SUBCHAPTER B. ADVISORY BOARD ON COSMETOLOGY

SECTION 3.04. Amends the heading to Section 1602.051, Occupations Code, as follows:

Sec. 1602.051. BOARD; MEMBERSHIP.

SECTION 3.04. Amends Section 1602.051(a) and (b), Occupations Code, to provide that the Advisory Board on Cosmetology, rather than the Texas Cosmetology Commission, consists of five members appointed by the presiding officer of the commission, with the commission's approval, rather than six members appointed by the governor with the advice and consent of the senate. Amends specific membership guidelines. Provides certain person's to serve as an ex officio member of the commission without voting privileges, rather than with.

SECTION 3.06. Amends Sections 1602.055(a) and (c), Occupations Code, to amend the guidelines for terms of members of the Advisory Board on Cosmetology and to make conforming changes.

SECTION 3.07. Amends the heading to Section 1602.058, Occupations Code, to read as follows:

Sec. 1602.058. PRESIDING OFFICER.

SECTION 3.08. Amends Section 1602.058(a), Occupations Code, to amend the existing guidelines for appointment of the presiding officer of the Advisory Board on Cosmetology and to make conforming changes.

SECTION 3.09. Amends Subchapter B, Chapter 1602, Occupations Code, by adding Section 1602.060, as follows:

Sec. 1602.060. BOARD DUTIES. Sets forth specific duties of the Advisory Board on Cosmetology.

SECTION 3.10. Amends the heading to Subchapter D, Chapter 1602, Occupations Code, to read as follows:

SUBCHAPTER D. ADDITIONAL POWERS AND DUTIES RELATED TO COSMETOLOGY

SECTION 3.11. Amends Sections 1602.153(a) and (b), Occupations Code, to authorize the department, rather than the Texas Cosmetology Commission (commission), to request and, if necessary, compel by subpoena, certain witnesses and information. Makes conforming changes.

SECTION 3.12. Amends Section 1602.251(c), Occupations Code, to make conforming changes.

SECTION 3.13. Amends Section 1602.258(b), Occupations Code, to make a conforming change.

SECTION 3.14. Amends Sections 1602.266(a) and (b), Occupations Code, to make conforming changes.

SECTION 3.15. Amends Sections 1602.267(b), Occupations Code, to delete existing text requiring an applicant to submit a certificate of health as required by Section 1602.253 and make conforming changes.

SECTION 3.16. Amends Sections 1602.302(b), Occupations Code, to make a conforming change.

SECTION 3.17. Amends Sections 1602.303(b) and (c), Occupations Code, to make conforming changes.

SECTION 3.18. Amends Sections 1602.305(b), Occupations Code, to make a conforming change.

SECTION 3.19. Amends Sections 1602.306(b), Occupations Code, to make a conforming change.

SECTION 3.20. Amends the heading to Section 1602.352, Occupations Code, to read as follows:

Sec. 1602.352. REQUIREMENT FOR FIRST RENEWAL OF LICENSE.

SECTION 3.21. Amends Subchapter H, Chapter 1602, Occupations Code, by adding Section 1602.353, as follows:

Sec. 1602.353. INACTIVE STATUS. (a) Authorizes a certificate or license holder, not later than the 10th day before the expiration date of a certificate or license issued under this chapter, to place the certificate or license on inactive status by submitting a specific application and paying the required fee.

(b) Provides that, except as provided by Subsection (e), a person whose certificate or license is on inactive status is not required to complete continuing education required under this chapter.

(c) Authorizes a person whose certificate or license is on inactive status to reapply for inactive status before the expiration date of the certificate or license. Requires the person to pay the required fee.

(d) Prohibits a license holder from employing a person on inactive status.

(e) Authorizes a person on inactive status to return the certificate or license to active status by submitting a specific application, paying the required fee, and providing evidence satisfactory to the department that

the person has completed the number of hours of continuing education that would otherwise have been required for a renewal of an active license for the preceding two-year license period.

(f) Authorizes the commission to set fees and adopt rules to implement this section.

SECTION 3.22. Amends Section 1602.405, Occupations Code, as follows:

Sec. 1602.405. New heading: PRACTICE AT FACILITY LICENSED OR PERMITTED AS BARBER AND COSMETOLOGIST FACILITY. Makes conforming changes.

SECTION 3.23. Amends Section 1602.451(a), Occupations Code, to delete existing text requiring the holder of a private beauty culture school license to submit certain information to the executive director and make a conforming change.

SECTION 3.24. Amends Section 1602.452, Occupations Code, to make conforming changes.

SECTION 3.25. Amends Sections 1602.453(c), Occupations Code, to make a conforming change.

SECTION 3.26. Amends Section 1602.454, Occupations Code, to delete existing text requiring a private beauty culture school to send to the commission a certified copy of a student's records, including specific information, when the student withdraws or transfers from a course of training without completion of the training. Requires the school to notify the department when a student graduates from a course of training offered by the school and is eligible to take the appropriate examination.

SECTION 3.27. Amends Section 1602.460(d), Occupations Code, to make conforming changes.

SECTION 3.28. Amends Section 1602.463(a), Occupations Code, to make a conforming change.

SECTION 3.29. Amends Sections 1602.464(a) and (b), Occupations Code, to make conforming changes.

SECTION 3.30. Amends Sections 1602.465(a), (b), and (c), Occupations Code, to make conforming changes.

ARTICLE 4. CONFORMING AMENDMENTS

SECTION 4.01. Amends Section 232.002, Family Code, as follows:

Sec. 232.002. LICENSING AUTHORITIES SUBJECT TO CHAPTER. Deletes existing text providing that the Texas Commission on Alcohol and Drug Abuse, the State Board of Barber Examiners, and the Texas Cosmetology Commission are licensing authorities subject to this chapter. Amends existing text to include that the Department of State Health Services, rather than the Texas Department of Health, the Department of Aging and Disability Services, rather than the Texas Department of Human Services, the Texas Private Security Board, rather than the Texas Commission on Private Security, and the Department of Family and Protective Services, rather than the Department of Protective and Regulatory Services, are licensing authorities subject to this chapter.

SECTION 4.02. Amends Section 411.122(d), Government Code, to delete existing text providing that the Board of Vocational Nurse Examiners is subject to this section and make conforming changes.

SECTION 4.03. Amends Section 2054.352(a), Government Code, to require certain licensing entities to participate in the system established under Section 2054.353, rather than Section 2054.353, as added by Chapter 353, Acts of the 77th Legislature, Regular Session, 2001, and make conforming changes.

ARTICLE 5. REPEALER

SECTION 5.01. Repealers: Subchapter C, Chapter 1601 (Executive Director and Personnel), Subchapter D, Chapter 1601 (Powers and Duties), Subchapter E, Chapter 1601 (Public Interest Information and Complaint Procedures), Subchapter O, Chapter 1601 (Administrative Penalties), Subchapter C, Chapter 1602 (Executive Director and Personnel), Subchapter E, Chapter 1602 (Public Interest Information and Complaint Procedures), Subchapter K, Chapter 1602 (Administrative Penalty), Section 1601.004 (Application of Sunset Act), Section 1601.051(b) and (c) (Board; Membership), Section 1601.052 (Public Member Eligibility), Section 1601.053 (Membership and Employee Restrictions), Section 1601.054 (Official Oath), Section 1601.056 (Grounds for Removal), Section 1601.057 (Per Diem; Reimbursement), Section 1601.252 (Application Process), Section 1601.261 (Examination Application), Section 1601.262 (Examination for Class A Barber and Teachers Certificates), Section 1601.263 (Examination Results), Section 1601.264 (Health Certificate Requirement), Section 1601.266 (Duplicate Certificate), Section 1601.267 (Reciprocal License or Certificate), Section 1601.302 (Temporary Barbershop Permit), Section 1601.310 (Relocation of Specialty Shop Permit), Section 1601.311 (Display of Specialty Shop Permit), Section 1601.356 (Inspection Before Operation), Section 1601.401 (Expiration of Certificate or License), Section 1601.402(d) (Renewal of Certificate or License), Section 1601.403 (Renewal of Teachers Certificate), Section 1601.404(a) and (b) (Renewal or Reinstatement of Expired Certificate or License), Section 1601.408 (Renewal of Expired Permit), Section 1601.502 (Supervision of Barbershop), Section 1601.503 (Notification of Change of Location), Section 1601.506 (Cleanliness), Section 1601.601 (Denial, Suspension, or Revocation),

Section 1601.651 (Injunction; Civil Penalty), Section 1601.654 (Enforcement by Attorney General), Section 1602.004 (Application of Sunset Act), Section 1602.051(b) and (c) (Commission; Membership), Section 1602.052 (Member Eligibility), Section 1602.053 (Membership and Employee Restrictions), Section 1602.054 (Official Oath), Section 1602.055(b) (Terms; Vacancy), Section 1602.056 (Grounds for Removal), Section 1602.057 (Per Diem; Reimbursement), Section 1602.058(b) (Presiding Officer; Committees), Section 1602.059 (Meetings), Section 1602.151 (General Powers and Duties of Commission), Section 1602.152 (Rules Restricting Advertising or Competitive Bidding), Section 1602.154 (Fees), Section 1602.155 (Annual Report), Section 1602.252 (License or Certificate Application), Section 1602.253, as amended by Chapter 1282, Acts of the 78th Legislature, Regular Session, 2003 (Certificate of Health Required for Certain Applicants), Section 1602.259 (License Examination), Section 1602.260 (Examination Procedures), Section 1602.261 (Examination Results), Section 1602.263 (Examination Results), Section 1602.264 (Temporary License), Section 1602.265 (Duplicate License or Certificate; Transcript), Section 1602.303(d) (Private Beauty Culture School License), Section 1602.304(b) (Public Secondary or Postsecondary Beauty Culture School Certificate), Section 1602.351(d) (Permit Required), Section 1602.352(b)-(f) (Procedure for Renewal or Reinstatement), Section 1602.407 (Grounds for Refusing, Revoking, or Suspending License), Section 1602.551 (Right of Access; Discovery of Violation), Section 1602.552 (Injunctive Relief), Section 1602.553 (Civil Penalty), and Section 1602.555 (Issuance of Certificate Without Examination; Offense), Occupations Code.

ARTICLE 6. TRANSITION AND EFFECTIVE DATE

SECTION 6.01. (a) Makes application of the abolishment of the State Board of Barber Examiners and the Texas Cosmetology Commission, of this Act, prospective to January 1, 2006 for certain purposes. Provides that the department assumes all of the obligations, property, full-time equivalent positions, rights, powers, and duties of the State Board of Barber Examiners and the Texas Cosmetology Commission, as they exist immediately before the effective date of this Act and that all unexpended funds appropriated to the abolished entities are transferred to the department. Requires that said transfer be completed no later than January 1, 2006.

(b) Provides that all rules of the State Board of Barber Examiners and the Texas Cosmetology Commission are continued in effect as rules of the commission until superseded by a rule of the commission and that a certificate, license, or permit issued by the State Board of Barber Examiners or the Texas Cosmetology Commission is continued in effect as provided by the law in effect immediately before the effective date of this Act. Provides that a complaint, investigation, contested case, or other proceeding pending on the effective date of this Act is continued without change in status after the effective date of this Act. Provides that an inspection or other activity conducted by the State Board of Barber Examiners or the Texas Cosmetology Commission is considered to be an inspection or activity conducted by the Texas Department of Licensing and

Regulation, including an inspection or other activity conducted for purposes of allowing a school, shop, or facility to continue to operate under Section 1603.103, Occupations Code, as added by this Act.

(c) Provides that a reference in another law or administrative rule to the State Board of Barber Examiners or the Texas Cosmetology Commission means the Texas Department of Licensing and Regulation.

SECTION 6.02. (a) Requires the board and the commission, in cooperation with and at the direction of the department to complete all necessary computer programming and other tasks to ensure that the agency numbers assigned by the comptroller of public accounts to the board and the commission are not necessary for any fiscal year after 2005, except to complete earlier fiscal year revenue and expenditure transactions and reporting. Requires the number assigned by the comptroller of public accounts to the department to be used to record transactions related to the regulation of barbering and cosmetology beginning in fiscal year 2006.

(b) Requires the board and the commission, not later than July 1, 2005, to request that the comptroller of public accounts grant the department inquiry-only security access to the uniform statewide accounting system, the state property accounting system, the uniform statewide payroll system, and the human resources information system for their respective agencies. Authorizes the department and the comptroller of public accounts to coordinate implementation of this section.

(c) Requires the department, not later than July 15, 2005, to provide to the board and the commission detailed information regarding those agencies' responsibilities under Subsection (a) of this section.

SECTION 6.03. Provides that Sections 1602.353 and 1603.352, Occupations Code, as added by this Act, take effect January 1, 2006.

SECTION 6.04. (a) Effective date: September 1, 2005, except as provided by Subsection (b).

(b) Provides that Section 6.02 is effective upon passage. Provides that if this Act does not receive the vote necessary for immediate effect, Section 6.02 of this Act does not take effect.